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*The St. Paul's Wahroonga Resumption Ordinance 1929.*

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No. 7. 1929.

AN ORDINANCE to authorise the Church of England Property Trust Diocese of Sydney to receive from the Government of New South Wales or out of Court the amount of compensation money to be paid by the Government in respect of the resumption by the Government of land in Peats Ferry Road and Lane Cove Road Wahroonga and being part of the land comprised in Certificate of Title under the provisions of the Real Property Act 1900 dated the twenty-second day of September One thousand nine hundred and six Volume 1724 Folio 73 and to declare the trusts upon which the said compensation money shall be held and for other purposes incidental thereto.

WHEREAS by Indenture of Conveyance bearing date the twenty-third day of May One thousand eight hundred and sixty-two registered Number 808 Book 81 made between Herbert Cunningham Fowler of the one part and the Lord Bishop of Sydney of the other part for the considerations therein mentioned the said Herbert Cunningham Fowler did give grant alienate release and confirm unto the said Bishop of Sydney and his successors Bishops of Sydney all that piece or parcel of land containing three roods or thereabouts as therein described to have and to hold the same unto the said Bishop and his successors Bishops of Sydney for ever upon trust for the erection thereon of a Church of the United Church of England and Ireland as by law established in conformity with the provisions of an Act of the Governor and Legislative Council of New South Wales made and passed in the eighth year of the reign of His late Majesty King William the Fourth intituled "An Act to regulate the temporal affairs of the Churches and Chapels of the United Kingdom of England and Ireland in New South Wales" and also upon trust for a School for the education of youth in the principles of the said Church subject in all respects to the management and control of the Minister of the District duly licensed by the Bishop of the Diocese and also for a residence for the Master of the said School AND WHEREAS by Indenture of Conveyance bearing date the twenty-fourth day of October One thousand eight hundred

and ninety-five Registered Number 284 Book 567 made between Robert Taylor of the one part and The Church of England Property Trust Diocese of Sydney (hereinafter referred to as "the said Trust") of the other part for the considerations therein mentioned the said Robert Taylor did thereby appoint grant and release unto the said Trust their successors and assigns all that piece or parcel of land and being with the land hereinbefore recited the whole of the land comprised in Certificate of Title under the provisions of the Real Property Act 1900 dated the twenty-second day of September One thousand nine hundred and six Volume 1724 Folio 73 to hold the same unto and to the use of the said Trust their successors and assigns upon trust for the erection and maintenance thereon of a Church or Building to be used for the celebration of Public Worship according to the use of the United Church of England and Ireland within the State of New South Wales subject however to the provisions (so far as they might be applicable) of "The Sydney Church Ordinance" passed by the Synod of the Diocese of Sydney on the sixth day of May One thousand eight hundred and ninety-one or of any other Ordinance which might be passed by the Synod of the said Diocese repealing altering or modifying the said "Sydney Church Ordinance" and it was thereby declared and agreed that all and singular the articles clauses and provisions of the said Sydney Church Ordinance and of every other Ordinance of the Diocese of Sydney repealing altering or modifying the same in so far as they affected lands churches and buildings belonging to the said Church of England and Ireland in the said State and the management thereof and the election of Churchwardens and trustees their powers and qualifications should be read and construed as if such Ordinance or Ordinances had formed part of and been incorporated in those presents AND WHEREAS the said Trust is now the registered proprietor of the hereinbefore mentioned pieces of land the same now being comprised in Certificate of Title under the provisions of the Real Property Act 1900 dated the twenty-second day of September One thousand nine hundred and six Volume 1724 Folio 73 subject to the aforesaid trusts AND WHEREAS portion of the land described in the said Certificate of Title being more particularly described in the Schedule hereto was resumed for a Public Road as notified in the Government Gazette dated the Fourteenth day of April One thousand nine hundred and twenty-seven Folio 5180 such land being part of the

site used for the Church of St. Paul Wahroonga AND WHEREAS the said Trust caused the prescribed notice of Claim to be served upon the Crown Solicitor and the Public Works Department AND WHEREAS the Government valued the said land for compensation at the sum of Four hundred pounds (£400) but subsequently increased the same to Four hundred and fifty pounds (£450) in addition allowing the said Trust to take possession of the lychgate and fencing fronting Peats Ferry Road and Lane Cove Road Wahroonga and the said Trust has accepted the same as compensation for the said land AND WHEREAS by Indenture of Release bearing date the twenty-fourth day of April One thousand nine hundred and twenty-nine made between the said Trust (therein called "releasor") of the first part His Most Gracious Majesty King George the Fifth of the second part and the Minister for Public Works (therein called the "Minister") of the third part in consideration of the sum of Four hundred and fifty pounds (£450) and interest thereon Thirty-six pounds nine shillings and ten pence (£36 9s. 10d.) making together the sum of Four hundred and eighty-six pounds nine shillings and ten pence (£486 9s. 10d.) paid to the Master in Equity as also the said Trust obtaining possession of the lychgate and fencing as aforesaid the said Trust did remise release and quit claim unto His Majesty the King his heirs and successors and to the Minister and his successors all claims demands actions suits cause and causes of action and suit sum or sums of money compensation interest damages costs charges and expenses which the said Releasor then had or at any time thereafter might have against His Majesty the King his heirs and successors or against the Minister and his successors for or on account of the resumption of the said land described in the schedule hereto or for or by reason or on account of any matter or thing arising out of or in respect of the said premises AND WHEREAS the said sum of Four hundred and eighty-six pounds nine shillings and ten pence (£486 9s. 10d.) has been paid to the Master in Equity to the credit of a fund entitled ex parte the Minister IN THE MATTER of the Public Works Act 1912 AND IN THE MATTER of the claim of the Church of England Property Trust Diocese of Sydney in accordance with the provisions of the Public Works Act 1912 AND WHEREAS by St. Paul's Wahroonga Mortgage Ordinance 1928 it was declared

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that the lands described in the Schedule thereto being another portion of the lands comprised in the said Certificate of Title should be held upon trust for a site for a rectory in connection with the said Church AND WHEREAS it is expedient that the said Trust should be authorised to receive the amount of compensation money and interest thereon in the matter of the resumption and to take such money out of Court as aforesaid and to apply the same in manner hereinafter appearing. Now the Standing Committee of the Synod of the Diocese of Sydney in pursuance of the powers in that behalf conferred upon it by the Church of England Trust Property Act 1917 and the Land Ordinance Procedure and Delegation of Powers Ordinance 1926 and in pursuance of the powers vested in the said Synod by the Constitutions for the management and good government of the Church of England within the State of New South Wales or otherwise in the name and in the place of the said Synod declares directs and rules as follows:—

1. By reason of the aforesaid circumstances it has become impossible to carry out or observe in their entirety the aforesaid trusts.

2. The said Trust is hereby authorised to receive from the Government of New South Wales or out of Court as aforesaid the amount of the compensation money and interest thereon in respect of the resumption of the said land and the receipt of the said Trust shall effectually discharge the Government and Master in Equity or other officer of the Supreme Court of New South Wales from being concerned to see to the application of the said moneys or being answerable for the loss or misapplication thereof.

3. The said moneys so received after payment thereof of all outgoings properly chargeable against the said land and all costs charges and expenses of or incidental to the resumption notice of claim the ascertainment of the value of the said land obtaining the money from the Court and all costs charges and expenses of and incidental to this Ordinance and the payment to the Treasurer of the Church Buildings Loan Fund of ten per centum of the balance of the said moneys for use in aid of the objects of the said fund shall be held upon trust and applied by the said Trust as follows:—

To pay the same to the Rector and Churchwardens on behalf of the Parish Council for the time being of the Church of St. Paul Wahroonga (whose receipt shall be a sufficient discharge) and to be allocated in the following manner:—

- (a) For removing and re-erecting the lychgate and fencing as aforesaid.
- (b) The balance towards the erection of the new Rectory Building of the said Church of St. Paul Wahroonga upon the site hereinbefore mentioned.

4. This Ordinance may be cited as "The St. Paul's Wahroonga Resumption Ordinance 1929."

#### THE SCHEDULE REFERRED TO.

All that piece or parcel of land situate in the shire of Hornsby parish of South Colah county of Cumberland and State of New South Wales being part of the land comprised in Certificate of Title Registered Volume 1724 Folio 73 Commencing at a point on the south eastern side of Peats Ferry Road bearing 358 degrees 53 minutes and distant 24 feet from the intersection of the eastern side of the said Peats Ferry Road as aligned with the northern side of Lane Cove Road as aligned; and bounded thence on the west by part of the eastern side of Peats Ferry Road bearing 358 degrees 53 minutes 174 feet thence on the north by part of the southern end of Ingram Road bearing 92 degrees 30 minutes 18 feet  $\frac{1}{2}$  inch; thence on the east by a line bearing 178 degrees 53 minutes 104 feet  $1\frac{1}{2}$  inches thence on the south east by 150 feet  $9\frac{1}{4}$  inches of the arc of a circle the centre of which is 100 feet and the centre lies towards the north east and the chord bears 135 degrees 41 minutes 30 seconds 136 feet  $10\frac{1}{2}$  inches to the northern side of Lane Cove Road aforesaid; thence on the south by part of that side of that road bearing 272 degrees 30 minutes 87 feet 11 inches and thence on the south west by a line bearing 315 degrees 41 minutes 30 seconds 35 feet to the point of commencement—having an area of  $18\frac{1}{2}$  perches or thereabouts.

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I certify that the Ordinance as printed is in accordance with the Ordinance as reported.

W. J. G. MANN,  
Acting Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney this First day of July, 1929.

C. R. WALSH,  
Secretary.

I assent to this Ordinance.

JOHN CHARLES SYDNEY.

3rd July, 1929.